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573. In its supplemental filing, MAET asks us to replace the channel 55 DTV allotment provided for its satellite station WMAE-TV, channel 12 in Booneville, Mississippi, with DTV channel 8. It states that operation of WMAE-TV's DTV service on channel 8 would cause a minimum of additional co-channel and adjacent channel interference to four stations in areas where those stations do not provide service. With regard to its seven pending applications, MAET states that, inasmuch as the channels that they specify do not appear to have been included in the DTV Table, it seeks clarification regarding the status of these pending applications and the appropriate DTV channel maintained and protected by the Commission for these proposed applications.

574. Cosmos opposes MAET's proposal to reassign DTV channel 8 to WMAE-TV in Booneville, Mississippi and states that the proposed change would create new interference to 2.1% of the population served by Cosmos' station KAIT-TV in Jonesboro, Arkansas.

575. We have reviewed MAET's request for WMAE-TV. Our analysis indicates that use of channel 8 by WMAE-TV would impact and cause increased interference to other stations. We therefore are denying MAET's requested change for WMAE-TV. With regard to its seven pending applications, we note that four of its applications have been protected -- specifically, applications for noncommercial television stations on channel 43 in Columbus, channel 31 in Cleveland, channel 32 in Yazoo City, and channel 21 in Clarksdale. If granted, these stations would not be eligible to receive a second channel for DTV. MAET's remaining three applications in Hattiesburg, Columbia, and Natchez were not protected because they were in areas where the Commission indicated that it would not accept new applications.

576. Mountain Broadcasting Corp. Petition and Supplemental Filing. Mountain Broadcasting Corp. (MBC) is the licensee of WMBC-TV, Channel 63, in Newton, New Jersey. In its petition, Mountain argues that allotment of DTV channel 61 to WNET-TV in New York, New York, would harm its operations and cause interference and loss of coverage to its existing viewers. It argues that the allotment of DTV channel 8 for its station WMBC-TV in Newton, New Jersey would result in loss of 28% of the station's service area. It notes that this loss of DTV service area reflects interference from NTSC stations on channels 7, 8, and 9. It is concerned that, if these stations keep their core spectrum NTSC channels for DTV, they will permanently cause interference to WMBC-TV's DTV operations. Mountain asks us to consider the suitability of unassigned channel 34 for WMBC-TV's DTV service.

577. Mountain states that it understands that any DTV allotment plan may result in some degree of interference but argues that the allotment decision disproportionately affects it and contravenes many policies that foster service from minority-owned, independent stations, such as WMBC-TV. Mountain requests that WNET-TV be allotted a channel other than 61 and that Mountain's WMBC-TV also be allotted a different channel for its DTV operation. Mountain states that its studies indicate that channel 34 could be allocated to it without an impact on the Table. Mountain alternatively proposes that the New York DTV allotments be re-run fully using all channels between 60-69. Finally, Mountain argues that it is entitled to a hearing if we do not

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grant its reconsideration.

578. In its supplemental filing, Mountain submits that DTV service on channel 34 would support a level of service comparable to WMBC-TV's existing NTSC operations. It further indicates that channel 34 would be superior to channel 8 in terms of interference caused, by reducing net NTSC and DTV interference. Mountain submits that channel 34 could be assigned to WMBC-TV without disrupting the DTV Table.

579. Mr. Anthony R. Bucco, a member of the New Jersey General Assembly, supports Mountain's request that we change WMBC-TV's DTV allotment to channel 34.

580. Mountain, in its comments, submits that other New York area broadcasters have expressed concern with regard to the DTV channel 8 allotment provided for WMBC-TV and the DTV channel 61 allotment provided for WNET-TV. It argues that ample evidence now on the record demonstrates that these allotments need to be revised. Mountain notes that Pulitzer, the licensee of WGAL-TV in Lancaster, Pennsylvania, argues that we should ameliorate NTSC service area loss by adopting temporary caps on the transmission power or antenna height of DTV stations that would cause such interference. It observes that such a cap would presumably apply to WMBC-TV. Mountain states that, while the cap would further reduce WMBC-TV's DTV service area during the transition, it might also benefit the station's existing NTSC service, if the interference from WNET-TV's DTV operation on channel 6 is similarly capped. It submits, however, that a station's DTV operations should not remain capped after the surrender of its NTSC license, even if removing the cap creates interference to the NTSC operation of another station in an adjacent, smaller market where the transition to DTV service is not yet complete.

581. Mountain further submits that we must adopt a floor on the service area and population loss that may be imposed on a particular station. It states that it understands that any DTV allotment plan may result in some interference to some stations during the transition period. However, it argues that the size of the service area and population losses imposed on WMBC-TV contravenes our underlying goals of minimizing interference to existing service and replicating that service following the transition to DTV. It states that the service area losses faced by WMBC-TV (19% of its service area population, representing a loss of more than 1.5 million people) will threaten the station's very survival.

582. Finally, Mountain argues that the DTV table imposes unjustified burdens on small businesses in the provision of telecommunications service. Mountain notes that Section 257 of the Telecommunications Act of 1996 requires the Commission to identify and eliminate market entry barriers for small businesses in the provision and ownership of telecommunications and information services.¹⁶⁴ It notes that we have given television broadcasters the flexibility to

¹⁶⁴ See 47 U.S.C. § 257(a).

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provide supplemental digital services such as data transfer, subscription video, interactive materials, and other innovations. It states that the implementation of DTV thus provides an opportunity for small businesses owning existing television stations to use their spectrum to provide new telecommunications and information services. Mountain argues that, judging by the New York area DTV allotments, the transition to DTV will greatly burden small businesses. It submits that the four stations that will experience the most interference in the New York ADI are all UHF stations, and that WMBC-TV will bear the most significant loss.

583. As Mountain recognizes, any DTV allotment plan that accommodates all existing broadcasters will result in some degree of interference to existing broadcast stations and new DTV allotments. This is especially true in the heavily congested Northeast portion of the United States and, in particular, the New York City market. In this regard, we recognize that Mountain's DTV allotment does not provide for full replication and that the existing operations of its WMBC-TV may experience more interference than certain other stations. We have carefully studied this situation, including Mountain's suggestions of channel 34 and 23. We find no solution that would improve this situation and continue to believe that our current DTV allotment plan, as amended herein, provides for the best approach for all broadcast stations. In this regard, we note that MSTV's proposed "*ex parte* filing" solution for this region, for example, was also unable to address Mountain's concerns. In fact, Mountain states, in response to MSTV's *ex parte* filing, that MSTV's proposals ignore the concerns of Mountain and would reduce service of its WMBC-TV by more than twice the amount imposed by Commission's DTV allotment plan. With regard to Mountain's suggestion that all channels, including channels 60-69, be used in this area to reduce interference and improve service replication. We have already implemented that approach. The DTV Table contained in the Sixth Report and Order uses all channels, including channels 60-69, where necessary to accommodate all stations with minimal interference.¹⁶⁵

584. Mountain Lake Public Broadcasting Petition and Supplemental Filing. Mountain Lake Public Broadcasting (MLPB), the licensee of WCFE-TV, channel 57 in Plattsburgh, New York, submits that operation of its DTV service on channel 38 as provided in the DTV Table will cause substantial and unnecessary harm to the station. It states that WCFE-TV serves a large but rather sparsely populated rural area in northeastern New York and northwestern Vermont. It submits that the financial costs of transmitting on a UHF channel are significant and burdensome for a rural public broadcaster like MLPB. For example, MLPB states that the annual operating costs of a UHF facility would be 85% more than the annual operating costs of a VHF facility. It proposes that we allot channel 13 or some other VHF channel for DTV service by WCFE-TV.

585. In its supplemental filing, MLPB submits that its studies confirm that channel 13 is available for use by WCFE-TV. It states that WCFE-TV could operate on channel 13 in Plattsburgh with 3.2 kW ERP at an antenna HAAT of 741.3 meters without causing interference

¹⁶⁵ See, for example, Sixth Report and Order at para. 36.

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to any existing NTSC station or DTV allotment. It submits that, with these facilities, WCFE-TV's DTV service would experience a very small amount of interference from two existing NTSC stations, that the areas of interference would be less than 1% of the station's coverage area, and that it would accept this interference. The coverage studies and maps used in the analysis were prepared by NTIA's Institute of Telecommunications Sciences.

586. MLPB notes that Heritage Media Corporation has filed opposition comments regarding its petition, making reference to the requested substitution of channel 13 for channel 38 at Plattsburgh and urging that we not accommodate reallocation requests that would put Heritage's station at an unfair advantage. MLPB submits that Heritage's comments do not specify what unfair advantage would be provided by its requested change. It states that this is especially unclear given WCFE-TV's status as a noncommercial educational station that does not compete in the commercial market. MLPB further notes that Trinity Christian Center of Santa Ana, Inc., in an effort to protect a translator station, urges that we substitute channel 13 as the DTV allotment for WVNY-TV, channel 22 in Burlington, Vermont. It urges that we conclude that the protection of a secondary translator service does not override the public interest concerns that form the basis of MLPB's request to use channel 13 at Plattsburgh.

587. We have reviewed MLPB's request. Our analysis indicates that operation on channel 13 by MLPB's WCFE-TV would impact and cause interference to other stations. Our analysis further indicates that there are no other VHF channels available for its use. Accordingly, we are denying MLPB's request. However, we would note that, due to the efficiencies of the DTV system, the expense of operating MLPB's DTV operation should be lower than the expense of operating its current UHF NTSC facility.

588. Mt. Mansfield, Inc. Petition. Mt. Mansfield, Inc. (Mt. Mansfield), the licensee of WCAX-TV, channel 3 in Burlington, Vermont, expresses concern regarding the channel 53 DTV allotment provided for WCAX-TV. It notes that both its existing channel and its DTV allotment are outside of the core spectrum and argues that it cannot make critical planning and investment decisions so long as the post-transition status of channel 3 remains unsettled. It also submits that operation of WCAX-TV's DTV service on channel 53 would allow coverage of only 91.9% of its existing service area and would deprive some 28,000 residents, including underserved rural residents in areas surrounding Montpelier and Barre, Vermont, of service. It states that it is unable to propose an alternative DTV channel for WCAX-TV without OET Bulletin No. 69 and without the establishment of minimum DTV spacing requirements with regard to Canadian stations. Mt. Mansfield requests that we consider alternative allotments for WCAX-TV that will better preserve the station's existing viewers and future service and that we make clear that all channels between channels 2-51 will be equally considered for the final DTV core spectrum. Mt. Mansfield also asks us to finalize coordinated DTV Tables to govern the allotment of channels in the U.S.-Canadian border area, so that broadcasters can design and construct their DTV facilities with some certainty that coordination will not disrupt or require later changes. Mt. Mansfield submits that, if formal coordination cannot be achieved quickly, then the DTV allotments set forth in the Sixth Report and Order should be conditioned on the right of border area

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broadcasters to require subsequent reallocations that will be consistent with the goal of service replication. It did not submit a supplemental filing.

589. Heritage indicates that it is concerned that providing Mt. Mansfield with a new DTV allotment could result in changes which place Heritage-owned stations in a competitive disadvantage in their respective markets.

590. With regard to Mt. Mansfield's request that we consider an alternative allotment for its station, WCAX-TV, we find that Mt. Mansfield has not provided any evidence that the channel 53 DTV allotment provided for WCAX-TV is inconsistent with our DTV policies and procedures. As indicated above, we are not making allotment changes merely because a station received an out-of-core allotment. Further, while the channel 53 allotment did not provide 100% replication of WCAX-TV's service area, we already noted that, in many situations, full replication during the transition period may not be possible. We estimate that the channel 53 DTV allotment for WCAX-TV will replicate over 90% of its current NTSC channel 3 service and that no interference should be caused to its existing NTSC operations. We continue to believe that the DTV channel 53 allotment for WCAX-TV is the best choice, given our DTV policies of full accommodation, service replication, and minimizing interference among all stations. With regard to Mt. Mansfield's other requests, we have amended our core spectrum approach, and all channels between channels 2-51 will now be considered equally for the DTV core spectrum. In addition, we have already begun the process to coordinate and finalize the DTV allotments along the United States and Canadian border. We note that the development and testing of DTV has been a collaborative effort between our two countries. Canada participated actively in our advisory committee activities, and much of the testing of the DTV system was done in Canada. We expect that our coordination efforts will be similarly cooperative and that DTV Tables of Allotments for both our countries will be promptly finalized, as requested by the petitioner.

591. National Broadcasting Company Petition. In its petition, National Broadcasting Company (NBC) requests that the DTV assignments for its stations located in Southern California, i.e., KNBC-TV, NTSC channel 4 in Los Angeles, California and KNSD-TV, NTSC channel 39 in San Diego, California, be re-examined. It is concerned that KNBC-TV's channel 36 DTV allotment is predicted to replicate only 84.3% of the station's service area and that KNSD-TV's assigned power of 89.3 kW may not be sufficient to fully replicate its service area. NBC states that, while it recognizes the difficulty in achieving complete replication of a low-VHF station by a UHF station, due to the terrain in the Los Angeles area, it believes there may be alternatives. It pledges to cooperate with the efforts of the Broadcasters' Caucus to coordinate possible allotment changes in the region.

592. We find that the allotments for NBC's KNBC-TV and KNSD-TV are appropriate and consistent with our service replication goals. We also note that the DTV channel allotments for these stations are also proposed in the Joint MSTV *ex parte* filing supported by NBC. We find that no changes in the DTV allotments for these stations are warranted.

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593. NBC submits that the interference caused to certain NTSC stations could be reduced or eliminated by a change in assignment for a DTV facility and that it intends to work with the Broadcasters' Caucus to resolve these issues. In particular, it notes that its WRC-TV in Washington, DC will receive co-channel DTV interference from WHP-TV, Harrisburg, Pennsylvania to 3.3% of the population and 7% of the land area within its Grade B contour, while its WAR-TV in Providence, Rhode Island will receive co-channel DTV interference from WTNH-TV, New Haven, Connecticut to 3% of the population and 11.4% of the land area within its Grade B contour. NBC submits that allotting other DTV channels for WHP-TV and WTNH-TV would allow its stations to retain their existing audiences.

594. We find that the impact on NBC's WRC-TV and WAR-TV is consistent with our goal of minimizing interference. In developing the DTV Table, we attempted to ensure that the DTV allotments do not cause interference to other stations, or where interference does occur to minimize the interference to the extent possible. In providing for full replication of all broadcast stations, it was not always possible to eliminate all interference. This is particularly true in congested areas such as the Northeast corridor. We find, however, that the approximately 3% impact on population for NBC's stations is well within our goals for minimizing interference. We further note that these levels are lower than the interference levels for many stations contained in MSTV's *ex parte* filing, which is supported by NBC. We therefore are denying NBC's request that the DTV allotments of WHP-TV and WTNH-TV be changed in order to protect certain of its stations.

595. NBC further states that a new DTV channel may be necessary for its station, WTVJ-TV in Miami, Florida. It states that it intends to move the WTVJ-TV DTV transmitter closer to the center of Miami in order to serve the entire Miami-Ft. Lauderdale market. NBC indicates that WTVJ-TV operates on channel 6 at a transmitter site located south of Miami and that operation from this location is needed because of a co-channel station in Orlando. As a result, WTVJ-TV currently operates two translators, on channel 58 in Hallendale and channel 19 in Sunrise, in order to provide service to the Miami-Ft. Lauderdale metropolitan area. According to NBC, WTVJ-TV was assigned DTV channel 30 in Miami with a maximum ERP of 1000 kW, but because channel 30 is first adjacent to the NTSC channel in West Palm Beach, Florida it may not be able to be moved to a new location without causing interference. NBC states that, if such a move cannot be made, it intends to apply for allotment of a new DTV channel that will permit it to move the station's transmitter site to a location closer to Miami. NBC did not submit a separate supplemental filing.

596. We note that MSTV's *ex parte* filing, to which NBC was party, did not recommend any DTV allotment change with regard to WTVJ-TV. We have reviewed the situation, and we confirm that WTVJ-TV's DTV channel 30 allotment cannot be moved closer to the center of Miami without causing additional interference. We do note that channel 58, which is now used by NBC to provide NTSC translator service for WTVJ-TV, could be used to provide complete DTV coverage of the Miami-Ft. Lauderdale area at that location without impacting any other stations. In view of the fact that we have no specific request before us at this time, however, we

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are not making any changes in the channel 30 DTV allotment for WTVJ-TV.

597. Ohio State University Petition and Supplemental Filing. Ohio State University (OSU), the licensee of noncommercial educational WOSU-TV, channel 34 in Columbus, Ohio, submits that the channel 38 DTV allotment provided for WOSU-TV would result in substantial and unnecessary hardship for the station. OSU states that operation on channel 38 may require WOSU-TV and other TV stations using OSU's tower to relocate to a new tower site. It states that the problem is that OSU's tower, which now holds the antennas for WOSU-TV, noncommercial educational WTTE-TV and LPTV station WCLS-LP simply cannot hold additional television antennas. Thus, in order to permit OSU to activate its DTV station using the tower, one or more of the other facilities on the tower will have to be removed at significant expense to those licensees and at significant loss of on-going revenue to OSU. It states that it anticipates that, working with the other stations on its tower and the Commission it can find a workable DTV channel to substitute to channel 38 that can operate from the OSU tower without significant disruption to other allotments or diminution in coverage area. In its supplemental filing, OSU states that despite its efforts it has not been able to identify another channel that would permit the sharing of antennas in a manner that would accommodate DTV facilities for stations that now use the OSU tower. It therefore limits its reconsideration request to urge the FCC to consider favorably the future substitution of an alternative channel for WOSU-TV's DTV channel 38 if, as a result of further analysis and cooperation among local stations, a channel becomes available. It states that channels may also become available due to TV stations ceasing broadcastings on either their NTSC or DTV channels or other changes in the Table of Allotments. It states that, as a result of its reconsideration, it would expect to have priority over other parties.

598. Throughout this proceeding, we have stated that we intend to provide broadcasters with the flexibility to develop alternative allotment approaches and plans. To the extent that an alternative DTV channel becomes available for WOSU-TV, as a result of future negotiation and cooperation among local stations, we have stated that we would act positively upon such changes, provided all affected broadcasters agree and the change does not result in additional interference to other stations or allotments. We are, however, denying OSU's request that it be given a priority in future allotments that may become available as a result of parties ceasing broadcasting on their NTSC or DTV channels. We do not find the fact that a party filed a petition for reconsideration to be a sufficient reason to warrant a priority over other parties in the assignment of future DTV channel allotments that may become available.

599. Ozark Public Telecommunications, Inc. Petition. Ozark Public Telecommunications, Inc. (OPT), the licensee of noncommercial educational KOZK-TV, channel 21, Springfield, Missouri, requests that we substitute channel 42 for its channel 23 DTV allotment. OPT states that channel 42 was proposed for KOZK-TV's DTV channel in the Sixth Further Notice and that it has already undertaken significant efforts and costs to implement service on that channel. OPT states that at the time of the draft DTV Table it was faced with the necessity of replacing the station's transmitting antenna. OPT states that it chose to acquire a

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panel antenna that could radiate efficiently on both channel 21 and channel 42 and that the cost of this antenna, which was installed in 1993, was \$300,000. It states that KOZK-TV will suffer substantial hardship if required to activate its DTV service on channel 23. OPT states that channel 42 can be used for KOZK-TV's DTV operation without causing interference to other stations or allotments. OPT did not submit a supplemental filing.

600. We have reviewed OPT's request. Our analysis indicates that use of channel 42 by OPT's KOZK-TV would impact and cause additional interference to other stations. We are sympathetic to OPT's situation and recognize the extra costs it incurred in installing a new antenna five years ago. Nevertheless, we expressly cautioned parties that the DTV Table of Allotments contained in the Sixth Further Notice was a draft and that the DTV allotments for individual stations were subject to change. We do not find that an allotment change request based on premature plans or commitments by broadcasting parties like OPT should outweigh the costs associated with additional interference to other stations. Accordingly, we are denying OPT's request to modify its DTV allotment.

601. Paxson Communications Corporation Petition and Supplemental Filing. Paxson expresses concern that the DTV allotments for three of its stations are outside the core spectrum. Specifically, it states that WAQF-TV, channel 51 in Batavia, New York was allotted DTV channel 53; KAJW-TV, channel 51 in Tolleson, Arizona was allotted DTV channel 52; and WAKC-TV, channel 23 in Akron, Ohio, was allotted DTV channel 59. Paxson states that it will be forced to relocate the DTV operations of these stations at the end of the transition. In addition, it states that WAQF-TV's and KAJW-TV's NTSC operations are on channel 51 and because the core spectrum may be located between channels 2-46, these stations may face the possibility that neither their existing nor their new DTV allotments will be in the core spectrum. Paxson submits that it has been unable to identify any alternative allotments for these stations that would satisfy our criteria of no new interference.

602. As indicated above, we are generally not changing allotments merely because a station received an allotment of an out-of-core channel. While we attempted to provide all stations with an in-core channel, this was not always possible. We have reviewed Paxson's request and find that there are no alternative in-core channels that would not result in additional interference to other stations. Accordingly, we are denying Paxson's request that the allotments for WAQF-TV, KAJW-TV, and WAKC-TV be changed.

603. Paxson questions our allotment to KTFH-TV, NTSC channel 49 in Conroe, Texas, of DTV channel 5, a potentially out-of-core channel, at only 1 kW ERP. It notes that, while the 1 kW ERP authorized for this station is predicted to fully replicate KTFH-TV's service area, in practice, transmissions at such low power levels will be unable to propagate through structures of any moderate size. It asks that we allot a different DTV channel for KTFH-TV or, in the alternative, that we authorize increased ERP and antenna height for the station's DTV operation on channel 5. Paxson submits that DTV channels 16 or 25 could be allotted for KTFH-TV without causing additional interference to NTSC operations.

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604. We have reviewed Paxson's request. Our analysis indicates that use of channels 25 by KTFH-TV would cause additional interference to other broadcast stations. We also note that use of channel 16 would be short spaced to existing land mobile in Houston. Neither of these channels would therefore be acceptable for use by KTFH-TV. We note, however, that under our decision to expand the core spectrum to include channels 2-6, the DTV channel 5 allotment provided for KTFH-TV will now be in the core spectrum. We also disagree with Paxson that the 1 kW ERP authorized for this station's DTV service is not adequate to replicate the station existing service. In this regard, we see no evidence that indicates that DTV signals on low-VHF channels at 1 kW will not adequately propagate through residential and other structures where viewers typically receive television service. Accordingly, we are denying Paxson's request to modify KTFH-TV's DTV allotment.

605. Pennsylvania State University Petition. Pennsylvania State University (PSU), the licensee of WPSX-TV, channel 3 in Clearfield, Pennsylvania, requests that we change its channel 15 DTV allotment to channel 7, or another suitable VHF channel. PSU submits that unique circumstances affecting WPSX-TV's service area will result in less replication than the 97.3% we have predicted. It states that, given the topography of the area, UHF-band transmissions may not reach all of its viewers. In addition, PSU anticipates that the costs of operation in the UHF band may significantly exceed the costs of operating in the VHF band. PSU did not submit a supplemental filing.

606. We have reviewed PSU's request. Our analysis indicates that there are no available VHF channels that could be allotted to WPSX-TV without increasing interference to other stations. We also note that our analysis of service coverage takes into account terrain. We therefore believe that the 97% replication figure for WPSX-TV is a reasonably accurate prediction of the station's DTV coverage. Accordingly, we are denying PSU's request that the allotment for WPSX-TV be changed.

607. Pennsylvania Telecasters, Inc. Petition. Pennsylvania Telecasters, Inc. (PT) requests that we reconsider the DTV Table to the extent that it deleted the vacant channel 29 allotment at State College, Pennsylvania, an allotment within the area covered by the 1987 Order freezing acceptance of applications for new stations in certain large markets. PT states that, on August 14, 1996, it filed an application to operate on this allotment and requested waiver of the freeze Order. It observes that this date was within the 30-day period that we provided for submission of new NTSC applications after the Sixth Further Notice. PT submits that another application for channel 29 at State College was filed at the same time by Harry J. and Anna A. Hain (the Hains). PT argues that, while we stated that we would avoid creating DTV allotments that conflict with proposed new NTSC stations, we nonetheless allotted channel 29 for DTV service in both Johnstown and Williamsport, Pennsylvania, thus precluding use of that channel at State College. It argues that we thereby violated our own policy and nullified both its application and that of the Hains. It asks that we either reinstate the NTSC channel 29 allotment at State College or provide an equivalent replacement allotment at that community and permit the modification of the two pending applications to specify operation on the replacement channel.

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PT did not submit a supplemental filing.

608. As noted in the Sixth Report and Order, we stated that we would continue to process pending applications and to consider requests for waiver of our 1987 freeze Order on a case-by-case basis. We also stated that we will not maintain NTSC allotments that are not subject to a pending application or rule making proceeding. PT's application has not been accepted, and we have not acted on its waiver request. The allotment at issue was needed and was used for DTV.

609. Quincy Newspapers, Inc. Petition. Quincy Newspapers, Inc. (QNI), the licensee of WREX-TV, Rockford, Illinois; WGEM-TV, Quincy, Illinois; WSVJ-TV, Elkhart, Indiana; WVVA-TV, Bluefield, West Virginia; KTIV-TV, Sioux City, Iowa; and KTTC-TV, Rochester, Minnesota, expresses concern about the DTV allotments provided for its stations. QNI did not submit a supplemental filing. First, QNI states that WREX-TV and WGEM-TV were assigned DTV channel 54 and that WSVJ-TV received DTV channel 58. Because these channels are outside the core, QNI states that the stations will have to relocate to DTV allotments inside the core at considerable expense. It states that it has determined that certain alternative channels might be feasible: channel 25 for WSVJ-TV and channel 28 for WGEM-TV. QNI notes that WSVJ-TV's NTSC service will suffer 10% new interference from the current DTV Table and that few stations will suffer as much DTV-to-NTSC interference.

610. As indicated above, although we attempted to provide all stations with an in-core channel and to ensure that the DTV allotments would not cause any interference to existing NTSC service, this was not always possible. We have reviewed QNI's request with regard to these stations and our analysis indicates that the use of channels 25 and 28 by WSVJ-TV and WGEM-TV, respectively, would cause additional interference to other stations. We are therefore denying QNI's request with regard to these stations.

611. QNI also states that WVVA-TV and KTIV-TV, which currently operate on channels 6 and 4, respectively, were assigned DTV channels 46 and 41. It observes that, if we do not expand the core spectrum to include channel 2-6, these stations will not have the option of returning to their NTSC channel. QNI also states that the area in and around Bluefield is mostly mountainous, so that propagation of TV signals in the UHF band presents potential coverage problems. QNI therefore requests that we change WVVA-TV's DTV allotment to channel 23 and that we allow WVVA-TV and similarly situated stations to use on-channel boosters to eliminate any coverage shortfalls caused by DTV interference.

612. As indicated above, we have expanded the DTV core spectrum to include channels 2-51. QNI therefore would have the option to return WVVA-TV and KTIV-TV operations to their original channels. As for QNI's request that WVVA's allotment be changed to channel 23, our analysis indicates that use of this channel would cause additional interference to other stations. We therefore are denying this request. QNI may employ on-channel boosters with its DTV operations; however, as indicated above, such stations will not be protected outside the

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DTV service area.

613. Red River Broadcast Corp. Petition and Supplemental Filing. Red River Broadcast Corp. (Red River), the licensee of KBRR-TV, channel 10 in Thief River Falls, Minnesota, and holder of a construction permit for KDLV-TV, channel 46 in Sioux Falls, South Dakota, requests that we modify the DTV allotments provided for these stations. Red River submits that allotment of high UHF band channels 57 for KBRR-TV and 47 for KDLV-TV will impose significant costs and create potential interference problems. Red River raises land mobile concerns about DTV channel 14 provided for its KJRR-TV in Jamestown, North Dakota and suggests that any interference to and from land mobile operations on frequencies adjacent to this channel should be the responsibility of land-mobile users. In its supplemental filing, Red River requests that the channel 57 DTV allotment provided for KBRR-TV be changed to DTV channel 32, that the channel 47 DTV allotment for KDLV-TV be changed to channel 42, and that the channel 14 DTV allotment for KJRR-TV be changed to channel 30.

614. We have reviewed Red River's request. Our analysis indicates that the DTV allotment changes requested by Red River for its stations would impact and cause additional interference to other broadcast stations. We also note that the requested change for KBRR-TV poses a conflict with Canadian allotments. Accordingly, we are denying Red River's requested changes for stations KBRR-TV, KDLV-TV, and KJRR-TV. We further note that our existing policies apply with regard to interference between land mobile and television services on shared channels. That is, the new operations will be required to protect, or take any corrective actions needed to protect, any existing operation.

615. Reece Associates Limited Petition and Supplemental Filing. In its petition, Reece Associates Limited (Reece), the holder of a construction permit for WZWY-TV, channel 27 in Orlando, Florida, expresses concern about its channel 14 DTV allotment. In its supplemental filing, Reece states that there is a likelihood that WZWY-TV would not be able to protect land mobile licensees operating in and around Orlando, Florida on frequencies immediately adjacent to channel 14. Reece states that it would prefer that WZWY-TV operate on in-core DTV channel 14 in Orlando. However, Reece states that because television licensees have to take the steps and incur the costs to remedy interference to land mobile operations, it believes a new DTV allotment is its best option. Reece states that a preliminary study of alternate DTV channels suggests that WZWY-TV can use channel 4 for digital operations at the transmitter site proposed for that station in a pending modification application, at 28° 16' 44.3" N and 81° 01' 24.8" W. If channel 4 is not suitable, Reece asks that we identify an alternative DTV channel for WZWY-TV.

616. We have reviewed Reece's request regarding WZWY-TV. Our analysis indicates that no other channels are available at its approved transmitter site that would not result in additional interference and are consistent with our DTV allotment policies. As stated above, our replication is based on approved facilities as of April 3, 1997. To the extent that Reece desires to make modifications to its NTSC or DTV allotments, it should follow the procedures set forth in the rules for such changes. With regard to its channel 14 allotment, we recognize that the

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successful implementation of this channel 14 for DTV use does require careful engineering and may result in some additional costs. However, we note that channel 14 is being used successfully for NTSC television service without causing interference to, or receiving interference from, adjacent land mobile operations. We therefore are denying Reece's request to change the DTV allotment for WZWY-TV.

617. Retlaw Enterprises, Inc. Petition. Retlaw Enterprises, Inc. (Retlaw) is the licensee of KJEO-TV in Fresno, California and eight other television stations. Retlaw, in its petition, submits that the DTV channel 14 allotment provided for its station KJEO-TV in Fresno, California is virtually co-located with a major provider of land mobile services now using frequencies adjacent to channel 14. It believes that KJEO-TV's DTV operation may render the adjacent land mobile frequencies unusable or severely impaired. Retlaw wishes to avoid the risks and expense of building DTV facilities on channel 14 in Fresno that might require adjustments by one or both parties. It requests that we provide explicit guidance to Retlaw and others facing similar dilemmas. At a minimum, it recommends that we provide a process to resolve real world problems on an *ad hoc* basis, free from preconceptions regarding the responsibility for resolving such problems. Retlaw did not submit a supplemental filing.

618. As noted above, our existing policies apply with regard to interference between land mobile and television services on shared channels. That is, any new operations will be required to protect, or take any corrective actions needed to protect, existing operations. We do not believe that any other general provisions or *ad hoc* measures are needed at this time to ensure successful sharing between land mobile and DTV services. We recognize that the successful implementation of KJEO-TV's channel 14 DTV allotment may require careful engineering and may result in some additional costs. We note, however, that channel 14 is being used successfully for NTSC television service under similar circumstances without causing interference to, or receiving interference from, adjacent land mobile operations. Accordingly, we are denying Retlaw's request.

619. Roberts Broadcasting of Cookeville, L.L.C. Petition. In its petition, Roberts Broadcasting of Cookeville, L.L.C. (Roberts), the licensee of WKZX-TV, NTSC channel 28 in Cookeville, Tennessee, is concerned that the assignment of DTV channel 27 to WKRN-TV, Nashville, Tennessee, which has transmission facilities located well within the edge of WKZX-TV's channel 28 Grade B contour, could result in substantial interference to WKZX-TV's NTSC service. Roberts is concerned that WKRN-TV could operate on channel 27 permanently, as its NTSC signal is on channel 2, which appears to be out of the core spectrum and therefore not available for use at the end of the transition. It requests that we reassign WKRN-TV's paired DTV channel 27.

620. We find Roberts' concerns about interference to its NTSC service to be without merit. We estimate that the DTV operations of WKRN-TV would impact only 2.8% of the population now served by Roberts' WKZX-TV. We believe that such an impact is consistent with our goal of minimizing interference. We further observe that we have now included

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channels 2-51 in the core spectrum, so that WKRN's channel 2 would be available for its use at the end of the transition. Nonetheless, if Roberts perceives WKRN-TV's DTV operations on channel 27 to be problematic, and WKRN-TV desires to continue its DTV operations on this channel rather than return to channel 2, Roberts can continue to operate its DTV operations on channel 28. We note that this allotment would provide 100% replication of Roberts' existing service area and an estimated increase in the population served from 192,000 to 200,000. Accordingly, Roberts' petition for reconsideration is denied.

621. Sierra Broadcasting Company Petition and Supplemental Filing. Sierra Broadcasting Company (Sierra), the licensee of KRNVT-TV, channel 4 in Reno, Nevada, expresses concern about the loss of service that would result from KRNVT-TV's operation on its channel 33 DTV allotment. It notes that this allotment would allow KRNVT-TV to cover only 59.4% of the station's existing service area and only 71% of the station's existing population, the lowest service replication in the country. In its supplemental filing, Sierra submits that channel 9 could be substituted for channel 33 at Reno with a minimum of complication. It requests that we allow KRNVT-TV to use this channel at a new site at Slide Mountain, at 39° 18' 45" N and 119° 53' 00" W. Sierra states that this would eliminate any spacing problems with the channel 8 NTSC operation of KOLO-TV in Reno. In addition, Sierra states that there would be a 22 km short spacing to KFSN-TV, channel 9 in Fresno, California. However, it states that its attached engineering statement demonstrates that terrain shielding between these two stations should negate any potential for interference.

622. Sierra requests a change in both its DTV channel allotment and transmitter site. As indicated above, we find that requests to change transmitter sites should be dealt with through the DTV allotment modification procedures provided for in the rules rather than as a matter for reconsideration. We recognize that, in this case, Sierra's requested channel change is premised on a concomitant change in its transmitter site. Nonetheless, consistent with our service replication approach, we also believe that requests for transmitter site and channel changes such as Sierra's should be handled under the DTV allotment modification procedures provided for in the rules. We therefore decline to make Sierra's requested changes.

623. Smoky Hills Public Television Corporation Petition. Smoky Hills Public Television Corporation (Smoky Hills), the licensee of noncommercial educational KSWK-TV, channel 3 in Lakin, Kansas submits that requiring KSWK-TV to use channel 23 for DTV service will cause substantial, unnecessary hardship. KSWK-TV is a satellite repeater station that rebroadcasts the signal of Smokey Hills' co-owned KOOD-TV in Hays, Kansas. Smokey Hills submits that, if KSWK-TV were to operate on channel 23 with power levels of 1,000 kW as authorized, the station's annual electric power costs would increase from approximately \$4,500 to over \$176,000. It states that it has tentatively identified channel 8 as a substitute for channel 23. It submits that the only significant increase in interference caused by the use of channel 8 would be to existing co-channel station KSNK-TV in McCook, Nebraska. Smoky Hills states that it would be willing to operate at a lower ERP during the DTV transition, while KSNK-TV uses channel 8, and to increase power on DTV channel 8 only after KSNK-TV completes its transition

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to its new DTV channel 12. It states that it is negotiating with the commercial broadcasters in the area and believes it can achieve a mutually acceptable arrangement with KSNK-TV for operations during the transition. Smoky Hills did not submit a supplemental filing.

624. We have reviewed Smoky Hill's request. Our analysis indicates that there are no available VHF channels that would not impact other broadcasters. Therefore, we are denying Smoky Hill's petition at this time. As indicated above, however, we will consider alternative allotment/assignment plans that are the result of negotiations and coordination among broadcasters and other parties within their communities. Smoky Hill indicates that it is engaged in ongoing dialogue with commercial broadcasters in its area. If and when Smoky Hill completes its negotiations and coordination, it may resubmit its request.

625. South Central Communications Corp. Petition. South Central Communications Corp. (SCCC) is the licensee of 11 LPTV stations and an applicant for two full service TV stations.¹⁶⁶ SCCC requests that the DTV allotment for WKGB-TV, Bowling Green, Kentucky be changed from channel 48 to 3 and the DTV allotment for WATE-TV, Knoxville, Tennessee be changed from channel 26 to 5 in order to protect its applications for construction permits for channel 48 in Owensboro, Kentucky and channel 26 in Knoxville, Tennessee. In the event that these changes are made, and SCCC's two applications are granted, SCCC commits to commence DTV operations within 18 months of such grants.

626. Young Broadcasting Inc. (YBI) opposes SCCC's petition seeking DTV allotment changes for 6 full service television stations, including YBI's Knoxville station, WATE-TV, in order to preserve its existing LPTV operations and protect its application for an NTSC station in Knoxville on channel 26.¹⁶⁷ YBI states that SCCC has made no showing to support the technical adequacy of its proposal to replace WATE's DTV channel assignment of channel 26 with channel 5. YBI also states that use of DTV channel 5 would place WATE at a distinct competitive disadvantage since it would be the only Knoxville station with both its NTSC and DTV channels potentially outside the core area. It describes SCCC as nothing more than an applicant for a proposed new NTSC station on channel 26 for which it may never receive an authorization and, even if authorized, may never be able to construct.

627. As noted in the Sixth Report and Order, we stated that we would continue to process pending applications and to consider requests for waiver of our 1987 freeze Order on a case-by-case basis. We also stated that we will not maintain NTSC allotments that are not

¹⁶⁶ SCCC's requests that the DTV Table be modified to avoid impact on several of its LPTV stations are addressed in the low power section of this order.

¹⁶⁷ Young Broadcasting Inc submitted a consolidated opposition to petitions for reconsideration filed by Rapid Broadcasting Company, South Central Communications Corporation, Trinity Christian Center of Santa Ana, Inc. d/b/a Trinity Broadcasting Network, and Landmark Arts, Inc. See Opposition of Young Broadcasting Inc. to Four Separate Petitions for Reconsideration filed July 18, 1997.

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subject to a pending application or rule making proceeding. SCCC's applications have not been accepted and we have not acted on its waiver request. In the absence of a pending application, the allotments at issue were needed and used for DTV.

628. Tri-State Public Teleplex, Inc. Petition and Supplemental Filing. Tri-State Public Teleplex, Inc. (Tri-State) is the licensee of noncommercial educational TV station WNIN-TV, channel 9 in Evansville, Indiana. Tri-State requests reconsideration of the allotment of DTV channel 54 and suggests that channel 12 may be an appropriate substitute. It states that use of channel 54 would increase electrical power costs to between \$200,000 to \$250,000 per year and would require a second channel change after the transition period. In its supplement, Tri-State submits that channel 12 is available for use by WNIN-TV, that DTV operation on channel 12 would be possible at its current antenna height of 177 m. HAAT and with power limited to approximately 15 kW in the direction of co-channel station KFVS-TV in Cape Girardeau, Montana, and that such operation would not cause interference to any other station. Tri-State asks that we amend the DTV Table to specify channel 12 as the paired DTV channel for WNIN-TV, with an appropriate power reduction towards KFVS-TV.

629. We have reviewed Tri-State's request. Our analysis indicates that substituting channel 12 for channel 54 as WNIN-TV's DTV allotment would impact and cause interference to other stations. Accordingly, we are denying Tri-State's petition. To the extent that Tri-State suggests specific engineering solutions, we find that such modifications are better addressed as part of a specific application rather than as a matter for reconsideration.

630. Univision Communications Inc. Petition. Univision Communications Inc. (Univision), owns and operates the Univision Network along with both full service and low power television stations.¹⁶⁸ It submits that the rules and procedures adopted in the Sixth Report and Order will severely impact Spanish-language broadcasters. It requests DTV channel changes for three of its full service stations.

631. Univision is the licensee of KUVN-TV, channel 23, in Garland, Texas, which was allotted DTV channel 24. Univision states that nearly every television station in this market operates from the Cedar Hill antenna farm, located between Dallas and Fort Worth. It states that KUVN-TV, constrained by mileage separation requirements, must transmit from a tower 43.5 km northeast of Cedar Hill, and that, as a result, KUVN-TV covers much less of the Dallas-Fort Worth market than the stations operating from Cedar Hill. It submits that, had KUVN-TV been allotted a non-adjacent DTV channel that could operate from the Cedar Hill site, KUVN-TV's DTV programming would reach most of the Hispanic households in the Dallas-Fort Worth market. Univision states that this situation is made worse by our allotment of the channel it currently uses for its low power operation in Fort Worth to a full service station in the Dallas

¹⁶⁸ Univision's requests for allotment changes to protect its low power operations, its supplemental filing addressing one of those operations, and the Telemundo pleading addressing these Univision requests are addressed in the low power section above.

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area. Univision requests a non-adjacent DTV channel that will allow it to locate KUVN-TV's DTV transmitter at the Cedar-Hill antenna farm. Univision also asks that we preserve the channel of its low power operation or provide it an alternate channel.

632. We note that the DTV allotment process is based on service replication. Under this approach, stations are allotted DTV channels that, to the extent feasible, replicate their existing NTSC service area, using the existing geographic coordinates and antenna heights of their presently authorized transmitting facilities. We note that Univision requests that the DTV allotment for its station KUVN-TV in Garland, Texas be changed to a non-adjacent channel so that it may operate from the Cedar Hill antenna farm. To the extent that Univision wishes to modify the location of KUVN-TV beyond the 5 km distance already provided in the rules, we find that such a request is beyond the scope of this proceeding and should be pursued under the procedures already in place for such requests.

633. With regard to its New York station, WXTV-TV, channel 41 in Patterson, New Jersey, which broadcasts from the Empire State Building, Univision states that assignment of adjacent DTV channel 40 to WXTV-TV will make it difficult for the station to begin DTV service because it is not clear that space will be available atop the Empire State Building for an additional UHF transmitter or antenna. It submits that the only real alternative, the World Trade Center, is 4.7 km from the Empire State Building, and it is concerned that operation there would lead to destructive interference. Univision states that, given the unique importance of the New York market and the current lack of any engineering data on potential interference between full power adjacent channel broadcast operations from sites nearly 5 km apart, we should eliminate this as likely source of interference by providing WXTV-TV with an non-adjacent DTV channel. While Univision will still face the difficulty of locating space to construct DTV transmitter facilities, it believes that this is preferable to risking investments and viewer loyalty on the unproven hope that interference will not occur between adjacent channel and NTSC facilities located 5 km apart.

634. With regard to Univision's request for a non-adjacent channel for its WXTV-TV in Patterson, New Jersey, we again note that we have permitted stations to locate their DTV facilities anywhere within 5 km of their existing NTSC transmitter. While some additional interference may occur in situations when exact co-location is not possible, we have found that this increased interference is generally *de minimis* and is outweighed by the flexibility needed by broadcasters to find appropriate sites to begin DTV operations. We understand that in the case of stations located in New York City this may be particularly difficult. However, we could not eliminate all adjacent DTV-to-NTSC channels while still achieving our other goals, such as full accommodation. We note that Univision is not the only broadcaster in New York City that was allotted an adjacent channel. Accordingly, we are denying Univision's request with regard to WXTV-TV.

635. Univision is concerned that the DTV channel 53 allotment for its WGBO-TV, channel 66 in Joliet, Illinois, is outside of the core spectrum. It states that, with both channels

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outside the core, the station will not only have to build DTV facilities twice but will also have to move to some presently unknown channel elsewhere in the band. It argues that this economically undesirable result will confuse the station's viewers, particularly if WGBO-TV's DTV operations are moved to a channel previously occupied by another station. Univision asks us to exchange the channel 19 DTV allotment provided for WGN-TV with the channel 53 DTV allotment provided for WGBO-TV. Univision notes that WGN-TV shares WGBO-TV's transmitter site. It submits that because WGN-TV's NTSC channel 9 is already within the core spectrum, swapping the DTV channels of WGN-TV and WGBO-TV will ensure that both stations have an in-core channel for their DTV operations once NTSC service ceases.

636. With regard to Univision's request for its WGBO-TV, as indicated above, we are generally not granting requests by broadcasters to change their DTV allotments based solely on the fact that the broadcaster received a DTV allotment out of the core spectrum. In developing the DTV Table of Allotments, we attempted to provide all eligible broadcasters with an initial DTV allotment within channels 2 to 51. However, this was not always possible because of the limited availability of spectrum and the need to accommodate and replicate all existing facilities with minimal interference. We also stated that the interests of maintaining adequate service replication and minimizing interference generally supersede other station characteristics, such as a station's particular programming.

637. Venture Technologies Group Petition and Supplemental Filing. VenTech is concerned about the channel 30 DTV allotment for its full service station WTWB-TV in Johnstown, Pennsylvania. It observes that the DTV Table provides DTV channel 28 at Clarksburg, West Virginia; and DTV channels 29 and 30 at Johnstown, Pennsylvania. It further states that on July 14, 1997, we issued a Report and Order in MM Docket No. 97-96, RM-8756, DA 97-1503 (released July 18, 1997), modifying the city of license of WTWB-TV to Johnstown from Jeannette, Pennsylvania, and also changing the station's television market from Johnstown-Altoona to Pittsburgh. VenTech argues that DTV channel 28 is not suitable for pairing with NTSC channel 46 at Clarksburg, because it is near the NTSC channel 29 station at Charleston, West Virginia. VenTech states that several other channels, including 10, 17, 31, 41 and 45, could be used for DTV service at Clarksburg that would not be so close to an adjacent channel. It believes that channel 45 would be the best choice because this channel could likely be used with the Clarksburg channel 46 station's existing antenna with minimal adjustments. VenTech submits that channel 29 is not a well-suited DTV allotment to be paired with NTSC channel 8 at Johnstown. It states that the Johnstown market is wide, and the terrain rough, so that it is impossible to serve the whole market from a single transmitter site. It states that in the last Nielsen ratings book a full third of the ratings books came from Centre County, where State College, Pennsylvania is located. VenTech notes that there is an NTSC channel 29 allotment in State College that conflicts with the channel 29 DTV allotment in Johnstown. It recommends that we substitute DTV channel 30 for channel 29 at Johnstown. To allow for this change, VenTech states that we should substitute channel 28 for the channel 30 allotment now paired with WTWB-TV's NTSC channel 19 at Jeannette.

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638. VenTech states that, by providing a two-channel separation in the DTV allotments associated with WTWB-TV and channel 8 at Johnstown, we would give greater future siting flexibility. It states that NTSC channel 8 at Johnstown and WTWB-TV have transmitter sites that are approximately one mile apart. It submits that, if we do not change the current DTV pairings in this region, adjacent DTV channels 29 and 30 will be required to remain co-sited, even though they are now serving different cities and markets.

639. We have reviewed the DTV allotment changes suggested by VenTech. Our analysis indicates that making these changes would impact and cause additional interference to other stations. Accordingly, we are denying VenTech request that we modify DTV allotments in the Johnstown, Pennsylvania and Clarksburg, West Virginia area.

640. VictoriaVision, Inc. Petition. VictoriaVision, Inc. (VictoriaVision), the licensee of station KVCT-TV, channel 19 in Victoria, Texas, requests that we allot channel 11 instead of channel 34 for KVCT-TV's DTV operations. VictoriaVision states that the MSTV's alternative channel list indicates that channel 11 is available for assignment at Victoria, Texas. It submits that allotment of channel 11 at Victoria would be beneficial to KVCT-TV's efforts to provide quality television programming to viewers in that market. VictoriaVision did not submit a supplemental filing.

641. We have reviewed VictoriaVision's request. We note that its existing DTV allotment is estimated to provide to provide for full replication. Further, our analysis indicates that its requested channel change would impact other broadcasters. We therefore are denying VictoriaVision's request that KVCT's DTV allotment be changed to channel 11.

642. Virgin Islands Public Television System Petition. Virgin Islands Public Television System (VIPTS) is the licensee of noncommercial educational television station WTJX-TV, channel 12, in Charlotte Amalie, St. Thomas, USVI. VIPTS asks that it be assigned DTV channel 10 rather than channel 44. It states that its engineering study indicates that VHF channels 3, 10 or 11 could be used by WTJX-TV. It states that it understands that the license of WBNB-TV, channel 10 in Charlotte Amalie has been canceled by the Commission and that the inclusion of this station with a paired DTV channel was an error made by the Commission. It states that channel 10 could be paired with WTJX-TV and that this would avoid the unnecessary expense of UHF operation for its noncommercial operation.

643. We have reviewed the request made by VIPTS. The Commission's engineering data base indicates that channel 10 in Charlotte Amalie is still an active license. Accordingly, use of this channel by VIPTS for its DTV operation is not possible. We therefore are denying VIPTS's request.

644. Wabash Valley Broadcasting Corp. and IMS Broadcasting, LLC. Petition. Wabash Valley Broadcasting Corp. and IMS Broadcasting, LLC. (Wabash) are commonly owned licensees of several TV stations. Wabash believes that rapid implementation of DTV will require

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shared antenna and tower arrangements and that the Commission should encourage such proposals. Wabash seeks authority to use an existing antenna farm for its WNDY-TV, DTV channel 32, Marion, Indiana at 39° 53' 45" N and 86° 12' 30" W, rather than its existing antenna site. Wabash did not file a supplemental filing.

645. Tribune opposes Wabash's request. It states that Wabash proposes to use the coordinates of the towers licensed to serve Indianapolis and that this change in WNDY's tower coordinates would impede WNDY's ability to serve its city of license, Marion, Indiana. Tribune states that, since Wabash did not request a change in its assigned DTV power, antenna height, and antenna pattern, its proposed noise limited contour would no longer encompass its principal community, in contravention of the FCC's rules.

646. As indicated above, we find that requests to change transmitter sites should be dealt with under the DTV allotment modification procedures provided for in the rules and not as a matter for reconsideration. Accordingly, we are denying Wabash's petition in this regard.

647. Warwick Communications, Inc. Petition. Warwick Communications, Inc. (WCI) is the licensee of KFXK-TV, channel 51 in Longview, Texas. In one of two petitions,¹⁶⁹ WCI asks that the DTV allotment for its KFXK-TV be changed from channel 52 to channel 26. It states that it is concerned about the use of adjacent channels and the fact that channel 52 is out of the core spectrum. WCI states that channel 26 will meet all technical requirements. Fox opposes WCI's request, noting that, while the change seems to meet spacing requirements with regard to Fox's co-channel station, KRIV-TV in Houston, its preliminary analysis raises interference concerns, in light of the relatively flat terrain in southeastern Texas.

648. As indicated above, we are not making changes merely because a broadcaster received an out-of-core channel. We have attempted to provide all broadcasters with a channel in the core spectrum 2-51. This was not always possible, however, given the need to accommodate and replicate all existing facilities with minimal interference. With regard to WCI's adjacent channel concern, our new out-of-band emissions mask will help to further ensure that adjacent DTV and NTSC channel operate without interference problems. We therefore are denying WCI's request that the DTV allotment for KFXK-TV be changed.

649. WCPX License Partnership Petition and Supplemental Filing. In its petition, WCPX License Partnership (WCPX), the licensee of WCPX-TV, channel 6 in Orlando, Florida, requests that we make a firm commitment to allow WCPX-TV to return to channel 6 for DTV operation at the end of the transition. WCPX argues that our concerns about using the low-VHF channels for DTV service are unfounded. It argues that the significant propagation benefits provided by these channels outweigh any slight disadvantages that might result from higher noise levels. In addition, it states that the risk of interference to noncommercial FM stations from

¹⁶⁹ WCI's separate petition regarding its low power station K22EH, channel 22 in Longview, Texas, is addressed in the low-power section above.

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allowing WCPX-TV to continue to use channel 6 for DTV service after the transition is highlighted by the station's successful operation on channel 6 for more than 40 years. Alternatively, WCPX requests that its DTV channel allotment should be changed from channel 58 to an in-core channel, such as channels 14 or 46. It argues that it is unfair to allot an out-of-core channel for WCPX-TV, a large market network affiliate subject to the November 1, 1999 DTV build-out requirement, while providing in-core channels for two unbuilt television stations in the central Florida area. It notes that unbuilt WZWT-TV in Orlando and WLCB-TV in Leesburg, Florida were assigned DTV channels 14 and 46, respectively. It submits that providing WCPX-TV with a DTV channel within the core spectrum will allow the station to prudently plan for DTV and not face two separate channel changes. It states that because WCPX-TV shares a tower with two other VHF stations and three FM stations, the uncertainty associated with an out-of-core channel will affect the other stations as well. WCPX indicates that there are no channels besides the channel 14 and 46 DTV allotments provided for WZWT-TV and WLCB-TV that will work at the WCPX-TV antenna site. WCPX argues that the permits for both stations were issued years ago and that both repeatedly have obtained extensions of construction deadlines. It argues that neither station has WCPX-TV's rapid build-out requirement, and that if we do not resolve that channel 6 will be available for its DTV use, we should assign it either channel 46 or 14 and substitute channel 58 as appropriate.

650. Reece Associates Limited (Reece) holds a permit to construct and operate a station in Orlando, Florida on NTSC channel 27. Reece opposes WCPX's request to assign Reece its DTV channel 58 and assign Reece's DTV channel 14 to WCPX-TV. Reece states that WCPX has failed to justify its request for DTV channel 14 and argues that as a permittee, Reece is no less entitled to a core DTV channel than WCPX.

651. In its supplemental filing, WCPX submits that upon further analysis, using the guidance provided in OET Bulletin No. 69, it could not operate on either DTV channel 14 or 46 and therefore withdraws these proposals. It submits, however, that the construction permit for NTSC channel 45 at Leesburg expired January 25, 1997 and that we should consider that channel vacant. WCPX requests that we replace this vacant NTSC noncommercial reserved channel 45 allotment with a DTV channel 45 noncommercial reserved allotment and move the reference coordinates approximately 12 km northwest of Leesburg. It states that this would permit WCPX-TV to use channel 46 for DTV service at Orlando in lieu of channel 58. It further offers that we could alternatively substitute DTV channel 58 at Leesburg if we assigned DTV channel 46 to WCPX-TV.

652. We have reviewed WCPX's request. While WCPX is correct that the construction permit for NTSC channel 45 at Leesburg expired in January, 1997, the CP has been reinstated and is currently valid. Therefore, channel 46 is not available for use by WCPX-TV. Further, our analysis indicates that there are no in-core channels available for WCPX-TV. As indicated above, however, we have amended our DTV core spectrum approach to include channels 2-6 and WCPX would therefore be permitted to return to its channel 6 at the end of the transition. Accordingly, we are denying WCPX's request that it be allotted DTV channel 46 or another in-

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core DTV channel.

653. WCTE-TV Petition. WCTE-TV, the licensee of noncommercial station WCTV-TV, channel 22 in Cookeville, Tennessee, submitted a letter on August 21, 1997, the date for filing supplemental filings. In its submission, WCTE-TV asks that its channel 52 DTV allotment be reconsidered. WCTE-TV is concerned that use of out-of-core channel 52 will require it to pay for two DTV conversions and will cause the station's monthly electric bill to nearly triple, from \$6,350 per month to approximately \$18,000 per month. It states that the station could not operate if its annual transmitting costs went from \$76,200 to \$216,000. WCTE-TV asks that it be permitted to transition from NTSC to full DTV operation on its station's existing channel 22. It states that it believes that channel 22 could be used for DTV service, with channel 52 as an alternate, until tests can be made on the station's antenna and feeding system. WCTE-TV proposes to implement a plan to test whether its existing tower and antenna will support DTV operation. It also would begin DTV operation on a limited basis, from 12:00 midnight until 6:00 a.m., with a gradual transition to full operation.

654. As stated above, we are not granting requests by broadcasters to change their DTV allotments based solely on the fact that the broadcaster received a DTV allotment out of the core spectrum. In developing the DTV Table of Allotments, we attempted to provide all eligible broadcasters with an initial DTV allotment within channels 2 to 51. However, this was not always possible because of the limited availability of spectrum and the need to accommodate and replicate all existing facilities with minimal interference. Although we recognize that the implementation of DTV will present a number of unique challenges for noncommercial educational broadcasters, we have stated that, in considering changes in the DTV allotments, including changes to eliminate out-of-core channels, the interests of service replication and minimizing interference generally supersede other station characteristics, such as whether the station is a noncommercial operation. Further, we do not find that WCTE-TV's suggestion that it convert to DTV operations on its existing channel would be in the public interest. Our decision to provide all eligible broadcasters with a second channel for DTV and require simulcasting is to ensure that service to the public is preserved during the transition period from analog to digital television operations. This would not be the case if we permitted existing stations to transition to digital on their existing analog channels. Accordingly, we are denying WCTE-TV's request.

655. WENH, Inc. Petition WENH, Inc. (WENH) is the licensee of WENH-TV, channel 36, in Elmira, New York. In its petition, WENH seeks reconsideration of the FCC's decision to assign it DTV channel 55. WENH states that, using MSTV's list of alternative DTV channels assignments, it has found that channel 6 is available for assignment to WENH-TV in Elmira. It states that replacing channel 55 with channel 6 for DTV will resolve certain fairness issues. Specifically, it states that VHF channel 2 was assigned to WENH-TV's competitor and that the allocation of channel 6 would "de-intermix" the Elmira market.

656. We have reviewed WENH's request. Our analysis indicates that use of channel 6 by WENH-TV would cause additional interference to other stations and also conflict with Canadian

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allotments. Accordingly, we are denying WENH's request that the DTV allotment for its station be changed.

657. Wichita License Subsidiary Corp. Petition and Supplemental Filing. Wichita License Subsidiary Corp. (WLS) is the applicant for a new commercial NTSC station in Salina, Kansas. In September 1996, WLS filed its application seeking authority on channel 34. The application was returned for failure to comply with the 1987 freeze, and WLS has submitted a petition for reconsideration of that action. WLS states that the DTV Table allots channel 34 to two communities approximately 85 miles from Salina: Wichita, Kansas and Superior, Nebraska. WLS reports that its studies indicate that we could allot DTV channel 31 to Wichita and channel 41 to Superior. It states that these changes would preserve channel 34 in Salina and, since channel 36 is also available, would allow the channels to be paired for DTV when WLS's reconsideration petition and channel 34 application are granted.

658. As indicated in the Sixth Report and Order, we stated that we would continue to process pending applications and consider requests for waiver of our 1987 freeze Order on a case-by-case basis. We further indicated that we are not maintaining NTSC allotments that are not subject to a pending application or rule making proceeding. WLS's application was considered and denied. Therefore, there was no pending application for the channel 34 allotment in Salina and that allotment has been used for DTV service. Further, we note that only parties licensed to operate a television station or holding a construction permit as of April 3, 1997 are eligible for an initial DTV channel. If WLS were to obtain a license, it would not be eligible to receive a matching DTV allotment. Accordingly, we are denying its request to change certain DTV allotments.

659. Withers Broadcasting Companies Petition and Supplemental Filing. Withers Broadcasting Companies (Withers) is the licensee of KREG-TV, channel 3 in Glenwood Springs, Colorado; KAVU-TV, channel 25 in Victoria, Texas; and WDTV-TV, channel 5 in Weston, West Virginia. In its petition, Withers seeks reconsideration of the DTV assignments provided for its stations.¹⁷⁰ Relying on MSTV's list of alternative DTV channels, Withers states that channel 9 is available in Glenwood Springs and Victoria and channel 10 is available in Weston. Withers states that substituting these channels for the DTV channels previously provided its stations would help them serve their communities.

660. The University of Houston is the licensee of noncommercial station KUHT, channel 8, Houston, Texas. It states that Withers' proposed change to the DTV Table with respect to its station KAVU-TV, Victoria, Texas would conflict with KUHT's own proposal for DTV operations on channel 9. The University states that there are several reasons why the Commission should prefer its request for DTV channel 9. It states that its station serves a much larger area and population, while Withers' original allotment of channel 15 is far superior to its

¹⁷⁰ Withers' stations were allotted the following DTV channels: DTV channel 23 to KREG-TV, DTV channel 15 to KAVU-TV, and DTV channel 58 to WDTV-TV.

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own channel 53 allotment. It further states that as a public television licensee it is less able to activate an effective DTV station on channel 53 than Withers, a commercial licensee, would be able to do on its allotted channel 15. The University also states that Withers' use of channel 9 would be short-spaced to existing public station KLRN-TV on channel 9 in San Antonio, Texas. It states that Withers has neither approached KLRN or obtained its consent. The University states that, unlike its proposal, which was accompanied by an engineering analysis and has the written consent of KTRE-TV, Withers has not recognized an interference problem and is opposed by co-channel station KLRN-TV. It concludes that Withers' proposal to use channel 9 would not be in the public interest.

661. We have reviewed Withers' requests. Our analysis indicates that the requested changes would impact and cause increased interference to other stations. We therefore are denying Withers' requested changes for its stations KREG-TV, KAVU-TV, and WDTV-TV.

662. WLNY-TV, Inc. Petition and Supplemental Filing. WLNY-TV, Inc. (WLNY) is the licensee of WLNY-TV, channel 55, in Riverhead, New York and three low power stations: W38BC, Stamford, Connecticut; W44AW Morristown, New Jersey; and W57BC, Mineola, New York. WLNY requests that we modify the channel 57 DTV allotment of WLNY-TV to reduce substantial interference to WLNY-TV's NTSC signal and relocate the station's DTV service to an in-core channel. WLNY argues that, given the unique technical operational and marketing burdens facing WLNY-TV, it should have first priority with respect to any core allotments identified by the station or the FCC. If no alternative channels exist, WLNY seeks first priority with respect to any NTSC channels recovered during the transition to DTV. It states that, when recovered NTSC channels become available for DTV use, we should issue a public notice establishing an exclusive window for out-of-core stations. It argues that no recovered spectrum should be made available to stations already in the core or to LPTV or translator stations unless each out-of-core full service station has a core channel that duplicates its existing DTV signal coverage. WLNY advocates an exception to our LPTV displacement rules that would allow WLNY-TV and other stations like it to recover their displaced LPTV channels once their full-service facilities are reassigned to core channels.

663. We have reviewed WLNY-TV's request. Our analysis indicates that there is no available in-core channel that could be allotted to WLNY-TV without causing additional interference to other stations. Further, we have already indicated that we would attempt to minimize the number of out-of-core operations, such as WLNY's, to the extent that other in-core channels may become available during the transition. In addition, we have stated that all out-of-core DTV stations will be given an in-core channel on which to operate after the transition. As discussed above, we are treating all displaced low power stations in a fair and equitable manner without regard to ownership or affiliation. We find no reason to amend that policy and treat low power stations operated by WLNY differently than other parties. Accordingly, the petition for reconsideration filed by WLNY is denied.

664. WTKR, Inc. Petition and Supplemental Filing. WTKR, Inc. (WTKR) is the

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licensee of WTKR-TV, channel 3 in Norfolk, Virginia. WTKR expresses concern that both its NTSC channel and its DTV channel 58 allotment may fall outside the core spectrum and requests that WTKR-TV be assigned DTV channel 46 instead. It states that this channel was retained as a noncommercial DTV "stand-alone" reserved allotment at West Point. WTKR argues that, since West Point is a community of fewer than 3,000 people served by two Richmond noncommercial stations, and since the allotment for West Point has remained unused for 32 years, there is little likelihood that a station would be constructed on channel 46 before the end of the DTV transition period. WTKR argues that channel 46 could be moved to Norfolk and used by WTKR-TV for its DTV service while causing only *de minimis* interference to other stations. It also notes that both of Richmond's operating noncommercial stations are carried on the West Point cable system. WTKR submits that assignment of channel 46 would allow it to avoid the very substantial expense of a double channel shift.

665. We find that WTKR's request conflicts with a request by WJCB, which is being granted and is discussed above, to eliminate land mobile interference. On balance, we find that eliminating potential interference with adjacent channel land mobile operations outweighs out-of-core concerns such as those expressed by WTKR. We are therefore denying WTKR's request. We note that because the core spectrum now includes channel 3, WTKR may have the option of returning to that channel at the end of the transition, if it desires to do so.

666. WXXI Public Broadcasting Council Petition and Supplemental Filing. WXXI Public Broadcasting Council (WXXI) is the licensee of noncommercial station WXXI-TV, channel 21 in Rochester, New York. In its supplemental filing, WXXI states that it has a pending application to increase the power of its station to 5,000 kW. It states that its 50 kW channel 16 DTV operation will have to compete with other DTV stations in the Rochester market that can operate at 1,000 kW. It states that its engineering studies indicate that WXXI-TV would not be able to increase power and that the directional antenna assumed for its station would severely affect its operation. It also indicates that its existing NTSC service would receive substantial interference from the channel 21 DTV service of WWTI-TV at Watertown, New York. It argues that its ability to identify an alternative DTV channel has been thwarted by the Commission's failure to provide guidelines on required protection of Canadian facilities and by the fact that Canada has not adopted a DTV Table. WXXI urges that: 1) WXXI-TV's allotment be amended to permit omnidirectional operation with a power of at least 50 kW; 2) an agreement with Canada be finalized, before closing the door on the ability of border stations such as WXXI-TV to propose an alternative channel allotment not subject to the rule making process; 3) the DTV allotment on channel 21 at Watertown, New York be changed to eliminate interference to WXXI-TV; and 4) protection of WXXI's application on reserved channel 61 with an in-band DTV allotment be confirmed.

667. Service replication is based on particular antenna patterns derived from replicating existing station coverage. To the extent that WXXI wishes to deviate from its specified antenna pattern, it may do so by reducing power or submitting a request to increase or maximize the coverage of its station under the applicable rules. With regard to WXXI's second request, we are

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working with Canada to ensure that DTV is implemented in a manner that best meets the needs and schedules of both countries. We see no merit, however, in providing additional time for border stations to propose alternative channels for their stations without rule making. Such an approach would delay the implementation of DTV and would not be in the public interest. As stated above, we are not changing the DTV allotment of one broadcaster at the request of another, unless all affected parties agree. We therefore deny WXXI's request that we change the channel 21 DTV allotment for Watertown. Finally, we confirm that the reserved NTSC channel 61 allotment at Rochester has been protected. We note, however, that there is no associated DTV channel pair for that NTSC channel and that any application granted for the channel would not be eligible for a second DTV channel.

668. WWAC, Inc. Petition and Supplemental Filing. In its petition, WWAC, Inc. (WWAC), the licensee of WWAC-TV, channel 53 in Atlantic City, New Jersey, submits that WWAC-TV's Grade B coverage is currently limited to a very small area. It states that on May 8, 1996, it filed an application to modify WWAC-TV's facilities by boosting its power to 5 MW and moving its transmitter site to a location that would allow it to reach a greater audience. WWAC states that this application is still pending but is not taken into account in the DTV Table. It notes that we assigned channel 53 to two other stations for DTV service, channel 68 in Newark, New Jersey and channel 47 in Salisbury, Maryland, and that it would be impossible to grant its modification application with those two stations in operation.

669. WWAC further submits that, while detrimentally affecting the ability of WWAC-TV to expand its service area, the DTV Table protects a permittee that has never built its station, is admittedly unable to build at its authorized site, and will cause interference to existing stations if allowed to go on the air under the current terms of its construction permit. WWAC states that WACI-TV, Atlantic City did not build its facilities during its construction period and had filed two applications for extensions. It states that WACI-TV was unable to operate at its approved transmitter site, due to environmental concerns, and that its application to operate at a different site has been opposed by other parties. WWAC requests that we deny the modification application of WACI-TV, revoke that station's construction permit, and exchange WWAC-TV's and WACI-TV's DTV allotments so that WWAC-TV may increase its coverage. In a further petition filed on September 15, 1997, WWAC submits that WWAC-TV's allotment problems could be solved either by revoking the current NTSC and DTV allotments of unbuilt-WACI-TV and reassigning them to WWAC-TV or, alternatively, by granting WWAC a channel in the channel 60-69 band and permitting it to subsequently migrate to the DTV core spectrum after unused spectrum is turned in.

670. Garden State Communications, L.P. (Garden State), the permittee of WACI-TV in Atlantic City, New Jersey, opposes the WWAC's request. Garden State submits that WWAC-TV has operated at minimal power for nine years. It argues that the solution crafted by WWAC to address its own self-created dilemma amounts to filing a petition to steal WACI-TV's permit without due process, that WWAC provides no support for this unprecedented action, and that the filing of a petition for reconsideration does not give rise to this type of draconian relief. It